



Paper No. 6

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In re Application of
Tchernev et al.
Application No. 10/072,012
Filed: January 31, 2002
Attorney Docket No. 21402-258
(CURA-558)

: OFFICE OF PETITIONS
: DECISION GRANTING
: PETITION
:
:

This is a decision on the petition under 37 CFR 1.10(e), filed August 23, 2002, and supplemented on August 30, 2002, and on October 28, 2002, requesting that the above-identified application be accorded a filing date of January 31, 2002.

The petition is GRANTED.

Applicants request the acceptance of the application with the filing date of January 31, 2002 on the basis that the application was allegedly deposited in Express Mail service (Express Mail mailing label #EK005153096US) on January 31, 2002, pursuant to the requirements of 37 CFR 1.10, and that the submission was not received by the Patent and Trademark Office.

In support, the petition is accompanied by a copy of the Express Mail mailing label, receipt no. EK005153096US; however, the express mail label is blank. Petitioners aver that the application was deposited for delivery Express Mail Post Office to Addressee on January 31, 2002; but, the post office returned the application as undeliverable on February 8, 2002. Applicants allegedly promptly re-filed the application and the instant petition. In support of this petition, Petitioners submit a copy of the Postal Service Express Mail Tracking and Delivery Confirmation which indicates that EK005153096US was accepted at 7:03 pm on January 31, 2002. The same Express Mail mailing number appears atop the copy of the Application Transmittal sheet submitted with the instant petition.

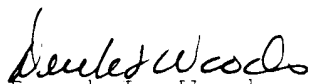
The Office considers the date the correspondence is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail mailing label. See MPEP §913. The date indicated on the "date-in" on the Express Mail mailing label verifies that the package was actually mailed. In view of the above, the evidence

is convincing that the application was deposited as "Express Mail" with the US Postal Service on January 31, 2002. Accordingly, the application is accepted as filed on January 31, 2002.

Since the instant petition has been granted, no petition fee is due and none has been charged.

The application is being forwarded to Office of Initial Patent Examination for further processing with a filing date of January 31, 2002.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.



Derek L. Woods
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Office of the Deputy Commissioner
for Patent Examination Policy